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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SAN MARTIN, EDGARDO

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 11/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

10/065,539

**Applicant(s)**

DONDI, BEDA CHARLES

**Examiner**

Edgardo San Martin

**Art Unit**

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet, 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet, 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) (12/17/02)
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

- On ¶[0023], line 12 reference character "30" should read - - 32 - -;
- On ¶[0024], line 4 reference character "30" should read - - 32 - -;
- On ¶[0027], line 2 reference character "48" should read - - 40a - -;
- On ¶[0028], line 16 reference character "52" should read - - 52a - -.

Appropriate correction is required.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities:

- On Claim 1, line 6 the word "set" should read - - said - -;
- On Claim 1, Line 10 the word "set" should be deleted.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3 – 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner considers that the expression "in strategically located areas" in claim 3, line 12, renders the claim indefinite. It is not clear where the strategically located areas are located or what make certain areas of the interior wall surface "strategically located areas".

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLeod (US 2,675,088) in view of Steger et al. (US 5,765,257).

With respect to claims 1, 2 and 7, McLeod teaches a noise reduction system comprising a main housing, a first baffle (Fig.1, Item 10) and a second baffle (Fig.1, Item 12) including an air outlet; an air stop connecting sleeve (Fig.1, Item 18) coupling the first baffle to set second baffle, the first baffle and the second baffle mounted

coaxially inside the main housing, the first baffle having an inlet and a plurality of circumferentially disposed apertures (Fig.1, Item 16), the second baffle having a plurality of circumferentially disposed apertures (Fig.1, Item 17), wherein the exhaust air first flows into the first baffle and is dispersed through the first baffle apertures into the baffle main and directed into the second baffle through the second baffle apertures into the second baffle outlet within the exhaust housing, the exhaust housing having at least one exhaust port (Fig.1; Col.1, Line 33 – Col.2, Line 43). However, McLeod fails to teach an exhaust housing coaxially coupled to the exhaust end of the second baffle, noise reduction foam connected to the inside wall of the main housing and the inside wall of the exhaust housing, and the muffler being use with a vacuum generating device.

On the other hand, Steger et al. teach a muffler for a vacuum generating device comprising an exhaust housing coaxially coupled to the exhaust end of the vacuum device (Col.1, Line 49 – Col.2, Line 35), a noise reduction foam (Fig.5, Item 5) connected to the inside wall of the housing (Col.3, Lines 34 – 52), and the air making an 180 degree turn in the exhaust housing (Fig.5, Col.4, Lines 6 – 25).

It would have been obvious to a person with ordinary skill in the art to employ the Steger et al. muffler design and connected at the exhaust end of the McLeod muffler because it would substantially decrease the noise levels produced by the vacuum device (Steger et al.; Col.4, Lines 26 – 55), in addition, it would have been obvious to place a noise reduction foam, as disclosed by Steger et al., in the inside surface of the

McLeod housing because it would improve the sound absorbing performance of the muffler over a wide range of frequencies.

With respect to claim 6, McLeod teaches wherein the first baffle and the second baffle are cylindrical tubular in construction, and the connecting sleeve includes tubular portions for coupling the first baffle to the second baffle (Fig.1).

5. Claims 3 - 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lallement (US 5,626,066) in view of Steger et al. (US 5,765,257).

With respect to Claims 3 and 5, Lallement teaches a noise reduction system for use with a vacuum generating device that include an air turbine to reduce the noise generated by the exhaust from the air turbine when used with an automatic cutting table comprising (Col.2, Line 61 – Col.3, Line 42), an air turbine having a vertically mounted exhaust duct (Fig.2), a baffle (Fig.3, Item 21) mounted on the air turbine exhaust duct and having an inlet opening (Fig.3, Item 2) for receiving air into the baffle from the air turbine exhaust, the baffle having a plurality of apertures (Fig.3, Item 21a) and an end plug (Fig.3, Item 21b) to prevent air from flowing out the end of the baffle. However, Lallement fails to disclose a large cylindrical container mounted coaxially over the baffle surrounding the baffle on all sides, the large container including a means for reducing noise distributed about its interior wall surface.

On the other hand, Steger et al. teach a noise reduction system for use with a vacuum generating device comprising a baffle (Fig.5, Item 21) mounted on the air turbine exhaust duct and having an inlet opening for receiving air into the baffle from the exhaust, an end plug (Fig.5, Item 25) to prevent air from flowing out the end of the

baffle, a large cylindrical container (Fig.5, Item 7) mounted coaxially over the baffle surrounding the baffle on all sides, and the large container including a means for reducing noise (Fig.5, Item 5) distributed about its interior wall surface.

It would have been obvious to a person with ordinary skill in the art to employ the Steger et al. muffler design with the Lallement muffler configuration because it would substantially decrease the noise levels produced by the vacuum device, and the noise reduction foam would improve the sound absorbing performance of the muffler over a wide range of frequencies.

With respect to claim 4, the Examiner would not give patentable weight to the limitations described in this claims because the specification does not contain a description of the advantages of selecting a PVC material and a square cross-sectioned structure over other material and configurations.

### ***Conclusion***

6. The attached hereto PTO Form 892 lists prior art made of record and not relied upon, the Examiner considered it pertinent to applicant's disclosure.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (703) 308 - 1050. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on (703) 308 - 3370. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872 - 9306 for regular communications and (703) 872 - 9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.



Edgardo San Martin  
Patent Examiner  
Art Unit 2837  
Class 181  
November 17, 2003